IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

COMPANY APPLICATION NO. 159 OF 2003

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
FEBRUARY 23, 2007.

Heard Smt. Wandile, learned counsel for the Official Liquidator, Mrs. Thakare, learned counsel holding for Shri Lambat, learned counsel for the respondents.

The Official Liquidator has pointed out that property belongs to M/s. Sanjeevani Saving and Investment (India) Ltd., under Liquidation and is reflected as such in its records. The property has also been attached in view of the orders of Principal Bench of this Court on 22.9.1998. The learned counsel therefore contends that respondents No. 1 & 2 who are in unauthorised occupation must be directed to hand over possession of said property to applicant – Official Liquidator. The attention has also been invited to stand taken in reply affidavit by the respondents in this respect and also to order dated 24.6.1998

passed in Writ Petition No. 1893 of 1997, copy of report submitted by the Court Receiver on 3.8.1998 in said writ petition and also to extract of investigation report.

Mrs. Thakare, learned counsel on the other hand states that the respondents have purchased the property on 12.7.1995 by paying amount of Rs.4,20,000/- and have been placed in possession thereof and hence they are owners. It is contended that therefore the application is misconceived. It is further stated that as earlier orders are passed by Principal Bench of this Court, the present proceedings before this Court are not maintainable.

The very document dated 12.7.1995 on which the respondents are placing reliance to show that they are owners reveal that thereunder the owner shown is company under liquidation. The document is on stamp paper of Rs.10/- and only an agreement. It is not registered and it is not sale deed at all. No stamp duty has been paid upon it. It mentions that agreement has been entered into on 12.7.1995 and amount of Rs.4,20,000/- has been shown as paid by the respondents to

company under liquidation in cash in three installments.

It is, therefore, clear that the respondents are not owners and title is still with company under liquidation.

The company has its registered officer in the jurisdiction of this Bench of Bombay High Court and therefore the winding up proceedings are going on before this Court. The Official Liquidator has therefore rightly filed the proceedings before this Court.

In the circumstances, present application is allowed. The respondents to hand over possession of flat mentioned in prayer clause (i) of the application i.e. Flat No. 402 as described thereunder within a period of six weeks from today to the Official Liquidator.

JUDGE

*GS.